

## Office of the Secretary, USDA

## § 14.5

AUTHORITY: Sec. 543, Pub. L. 95-600; as amended by sec. 105, Pub. L. 96-222; 26 U.S.C. 126, 1255 and 5 U.S.C. 301.

SOURCE: 45 FR 58507, Sept. 4, 1980, unless otherwise noted.

### § 14.1 Purpose.

(a) Part 14 sets forth criteria to be used by the Secretary of Agriculture in determining the primary purpose of certain payments received by persons under applicable programs. Determining the primary purpose for which applicable payments are made is one step toward the exclusion of all or part of the payments from gross income for Federal income tax purposes.

(b) The criteria set forth in part 14 apply only to the determinations to be made by the Secretary of Agriculture.

### § 14.2 Applicability.

(a) Part 14 applies only to payments received under the programs listed in paragraphs (a)(1) through (10) of this section. Payments received under programs not listed in paragraphs (a)(1) through (10) of this section, are not considered eligible for exclusion from gross income under this part.

(1) The rural clean water program authorized by section 208(j) of the Federal Water Pollution Control Act (33 U.S.C. 1288(j)).

(2) The rural abandoned mine program authorized by section 406 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1236).

(3) The water bank program authorized by the Water Bank Act (16 U.S.C. 1301 *et seq.*).

(4) The emergency conservation measures program authorized by title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 *et seq.*).

(5) The agricultural conservation program authorized by the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590a).

(6) The Great Plains conservation program authorized by section 16 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590p(b)).

(7) The resource conservation and development program authorized by the Bankhead-Jones Farm Tenant Act and by the Soil Conservation and Domestic Allotment Act (7 U.S.C. 1010; 16 U.S.C. 590a *et seq.*).

(8) The forestry incentives program authorized by section 4 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103).

(9) Any small watershed program administered by the Secretary of Agriculture that is determined by the Secretary of the Treasury or his delegate to be substantially similar to the type of programs described in paragraphs (a)(1) through (8) of this section.

(10) Any program of a State, a possession of the United States, a political subdivision of a State or a possession of the United States, the District of Columbia, or a combination of any of the foregoing under which payments are made primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife.

(b) The criteria set forth in § 14.5 for determining the primary purpose of payments with respect to their eligibility for exclusion from gross income shall also be used to determine the applicability of this part to payments received under non-Federal programs as provided in § 14.2(a)(10).

### § 14.3 Objective.

The objective of the determinations made under part 14 is to provide maximum conservation, environmental, forestry improvement, and wildlife benefits to the general public from the operation of applicable programs.

### § 14.4 Policy.

Federal tax, conservation, natural resource, and environmental policies should complement rather than conflict with one another. Therefore, the Federal income tax liability on applicable payments should be reduced or eliminated to the extent that the payments yield conservation, environmental, forestry improvement, or wildlife benefits to the general public beyond the benefits that accrue to those who receive the payments.

### § 14.5 Procedure.

(a) The portion of an applicable payment that may be excluded from gross income under part 14 shall be that portion or all, as appropriate, that—

## § 14.6

## 7 CFR Subtitle A (1-1-08 Edition)

(1) Is determined to be made primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing wildlife habitat; and

(2) Is determined by the Secretary of the Treasury as not increasing substantially the annual income derived from the property associated with the payment.

(b) *Primary purpose* means the principal, fundamental, predominant, or independent objective for which a payment is made. The following shall be considered in determining the primary purpose of a payment:

(1) *Single-purpose* payments shall be considered as having that purpose as their primary purpose.

(2) *Multiple-purpose payments*. If a payment is made for several purposes, it may be considered as having soil and water conservation, environmental protection or restoration, forestry improvement, or providing wildlife habitat as its primary purpose to the extent of the portion of the payment that is made for one or more of such purposes.

(3) Where a purpose of a payment, or portion thereof, is in doubt, the following sources should be considered—

(i) Authorizing legislation, legislative history, administrative regulation, administrative history, interpretive case law, and the administrative policies and procedures under which the applicable program operates and the payment is made; and

(ii) Agreements or other documentation accompanying the transfer of the payment;

(iii) Use made of the payment by the recipient.

### § 14.6 Criteria for determining the primary purpose of payments with respect to potential exclusion from gross income.

(a) *Soil conservation*. (1) Payments shall be considered to be made primarily for the purpose of soil conservation if they are intended to finance activities, measures, or practices to reduce soil deterioration.

(2) Soil deterioration refers to impairments of the physical or chemical properties of soil that are largely irre-

versible and that can be expected to result in a long-term or permanent reduction in the productive capacity of the resource regardless of the level of technology available or applied. Erosion by water and wind and the associated changes that result in permanent or long-term reductions in the productive capacity of the soil are forms of soil deterioration.

(b) *Water conservation*. (1) Water conservation includes actions that, for a given level of water supply, reduce the demand for or use of water by—

(i) Improving efficiency in use;

(ii) Reducing loss and waste;

(iii) Increasing the recycling or reuse of water, thereby making existing supplies available for other current or future uses; or

(iv) Improving land management practices for the purpose of reducing water use, loss, waste, increasing the efficiency of water use, or increasing the recycling or reuse of water.

(2) Payments shall be considered to be made primarily for the purpose of water conservation if they are intended to finance actions, measures, or practices that can be expected to result in water conservation as defined in paragraph b(1) of this section.

(c) *Protecting the environment*. (1) Payments shall be considered to be made primarily for the purpose of protecting the environment if they are intended to finance actions, measures, or practices undertaken to prevent man-caused or man-induced reductions or degradations in the quantity or quality of the natural external or extrinsic conditions directly or indirectly affecting people.

(2) External or extrinsic conditions refer to the complex of natural conditions or circumstances, including but not limited to those affecting public health and safety, in which people reside or otherwise carry out their lives.

(d) *Restoring the environment*. (1) Payments shall be considered to be made primarily for the purpose of restoring the environment if they are intended to finance actions, measures, or practices undertaken to reestablish, return, or enhance the quantity or quality of the natural external or extrinsic conditions directly or indirectly affecting